

**AUG 25 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUVENILE MALE,

Defendant - Appellant.

No. 06-30038

D.C. No. CR-05-00025-SEH

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Montana  
Sam E. Haddon, District Judge, Presiding

Argued and Submitted August 15, 2006  
Seattle, Washington

Before: REAVLEY,<sup>\*\*</sup> PREGERSON, and CALLAHAN, Circuit Judges.

The facts of this case are known to the parties and we do not recite them here. We have jurisdiction pursuant to 28 U.S.C. § 1291.

---

<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> The Honorable Thomas M. Reavley, Senior United States Circuit Judge for the Fifth Circuit, sitting by designation.

In its Conclusions of Law, the district court wrote that it “*must* assume, for purposes of a transfer determination, that the juvenile committed the offense charged in the information.” (emphasis added). This court recently recognized that “the authority of a district court to assume the guilt of the accused juvenile is *permissive*, not mandatory.” *United States v. Juvenile*, — F.3d —, 2006 WL 1699959, at \*5 (9th Cir. June 22, 2006) (emphasis added). Pursuant to *Juvenile*, we vacate the order of the district court transferring A.D.M. to adult status under 18 U.S.C. § 5032. *See id.* We remand “so that the district court, advised that it has discretion to assume or to decline to assume the accused juvenile’s guilt, will be in a position to exercise that discretion and to reexamine the statutory factors bearing on transfer in the light of the district court’s full discretionary authority.” *Id.*

VACATED and REMANDED.